

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN CLERK'S OFFICE

U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES OF AMERICA,

★ MAY 10 2005 ★

Plaintiff,

BROOKLYN OFFICE

-against-

ORDER
04-CR-0700(ERK)

RICHARD SMITH,

Defendant,

----- X
Korman, Ch. J.

A memorandum of the Chief Probation Officer has been provided to the parties at my direction. Mr. Garoppolo suggests that there is an insufficient basis for the assumption that "the side effects from one or more of the defendant's medications necessarily played a role in his losing control of the Ferry." Mr. Garoppolo also goes on to note that, the defendant's "consumption of Tramadol, which seems to be the primary medication at issue for the Government," was used by the defendant "over a long period of time without side effects" and that "synthetic opiate drugs such as Tramadol can lose some effectiveness when taken regularly over a period of time." The same may be true of Ambien.

What is the evidence that the drugs caused the defendant to loose consciousness while piloting the Ferry? Moreover, if it is true that the defendant used those drugs without incident over a long period of time, what inference can be drawn with respect to his state of mind regarding the impact of the drugs on his ability to safely pilot the Ferry on the date of

the accident?

In responding to the first question, I would appreciate a submission from a person with expertise in the subject matter that Mr. Garoppolo addresses.

SO ORDERED:

Brooklyn, New York
May 2, 2005

s/Edward R. Korman
Edward R. Korman
United States Chief District Judge